

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

ROCKAUTO, LLC,

Defendant.

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Civil Action No. 18-cv-797

**COMPLAINT**  
(Jury Trial Demand)

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to Glenn McKewen. As alleged below, on or about October 25, 2016, the defendant RockAuto, LLC refused to hire Mr. McKewen because of his age (then 64).

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked under 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted under Section 7(b) of the Age Discrimination in Employment Act of 1967 (“ADEA”), as amended, 29 U.S.C. § 626(b), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (“FLSA”), as amended, 29 U.S.C. §§ 216(c) and 217.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Wisconsin.

PARTIES

3. Plaintiff Equal Employment Opportunity Commission (“EEOC”) is the federal agency charged with administering, interpreting, and enforcing the ADEA and is expressly

authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. At all relevant times, the defendant, RockAuto, LLC (“RockAuto”), has continuously been a corporation doing business in the state of Wisconsin and the Western District of Wisconsin, and has continuously had at least 20 employees.

5. At all relevant times, RockAuto has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

#### STATEMENT OF CLAIMS

5. More than 30 days before the institution of this lawsuit, Mr. McKewen filed a charge with the EEOC alleging RockAuto violated the ADEA.

6. On February 2, 2018, the EEOC issued to RockAuto a Letter of Determination finding reasonable cause to believe that the ADEA was violated and inviting RockAuto to join with the EEOC in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.

7. The EEOC engaged in communications with RockAuto to provide it the opportunity to remedy the discriminatory practices described in the Letter of Determination.

8. The EEOC was unable to secure from RockAuto a conciliation agreement acceptable to the EEOC.

9. On July 17, 2018, the EEOC notified RockAuto in writing that conciliation efforts had failed.

10. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. On or about October 25, 2016, RockAuto engaged in unlawful employment practices, in violation of Section 4(a)(1) of the ADEA, 29 U.S.C. § 623(a)(1), when it refused to hire Mr. McKewen, who was in the protected age group as defined in Section 12 of the ADEA, 29 U.S.C. § 631, to a position as Supply Chain Manager, even though he had many years of relevant experience, because of his age (then 64). RockAuto ultimately hired less-experienced and much younger (then 22 and 32) candidates.

12. The effect of the practices complained of in Paragraph 11 above has been to deprive Mr. McKewen of equal employment opportunities and otherwise adversely affect his status as an employee, because of his age.

13. The unlawful employment practices complained of in Paragraph 11 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

#### PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining RockAuto and its officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with them, from engaging in employment practices which discriminate against individuals 40 years of age and older by refusing to hire them because of their age.

B. Order RockAuto to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Grant a judgment requiring RockAuto to pay Mr. McKewen appropriate back wages, including lost benefits, in an amount to be determined at trial, and an equal sum as liquidated damages.

D. Order RockAuto to make Mr. McKewen whole by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to hiring him, or front pay, including lost benefits, as necessary in lieu thereof.

E. Grant such further relief as the Court deems necessary and proper in the public interest.

F. Award the EEOC its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its complaint.

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Gwendolyn Young Reams  
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
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Dated: September 25, 2018

/s/ Gregory Gochanour  
Gregory Gochanour  
Regional Attorney

Dated: September 25, 2018

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